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THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,

Plaintiff,

v.

MICRO THERAPEUTICS, INC., a Delaware corporation, DENDRON GmbH, a German corporation, and ev3 INC., a Delaware corporation,

Defendants,

MICRO THERAPEUTICS, INC., a Delaware corporation, and DENDRON GmbH, a German corporation,

Third Party Plaintiffs,

v.

BOSTON SCIENTIFIC CORPORATION, a Delaware corporation, and TARGET THERAPEUTICS, INC., a Delaware corporation,

Third Party Defendants

Case No. C 03 05669 JW (RS)

**STIPULATION AND ~~[PROPOSED]~~ ORDER  
RE DEADLINE ON PLAINTIFF'S  
OBJECTIONS TO THE COURT'S  
OCTOBER 12, 2007 ORDER GRANTING  
DEFENDANTS' MOTION TO COMPEL**

Judge: Honorable Richard Seeborg  
Place: Courtroom 4, 5th Floor

Pursuant to Federal Rule of Civil Procedure 6(b) and Local Rules 6-2 and 7-12, Plaintiff and Counterdefendant The Regents of the University of California (“The Regents”) and Defendants and Counterclaimants Micro Therapeutics, Inc., Dendron GmbH, and ev3 Inc. (collectively “Defendants” or “MTI”) hereby stipulate as follows:

1. On October 12, 2007, this Court issued an Order granting MTI’s Motion to Compel Plaintiff to Produce Documents Related to its Patentability Search (Dkt. No. 946).

2. On October 15, 2007, The Regents filed its (1) Motion for Leave to File Emergency Motion for Reconsideration of the Court’s October 12, 2007 Order on Defendants’ Motion to Compel and Motion to Shorten Time (Dkt. No. 950) (“Motion for Leave and to Shorten Time”), and (2) Motion for Reconsideration of the Court’s October 12, 2007 Order on Defendants’ Motion to Compel (Dkt. No. 952) (“Motion for Reconsideration”).

3. On October 16, 2007, this Court clarified that the 10-day time period for objections to the Court’s October 12, 2007 Order is tolled while The Regents’ Motions are pending. (Premo Decl.<sup>1</sup> ¶ 5). The parties further note that the Court’s October 16, 2007 Minute Order (Dkt. No. 954) states “Plaintiff’s motion to reconsider order issued 10/12/07 to be held in abeyance.”

4. On October 18, 2007, Judge Ware entered an Order, pursuant to the parties’ stipulation, staying enforcement of the Court’s October 12, 2007 Order until further order of the Court. (See Dkt. No. 962, at 3 & ¶¶ 1 & 4.)

5. To avoid any confusion regarding the deadline for filing any objections, the parties hereby confirm that the 10-day limitation for filing objections with the District Court to the Court’s October 12, 2007 Order (Dkt. No. 946) pursuant to Federal Rule of Civil Procedure 72(a) has been tolled in light of The Regents’ pending Motion for Reconsideration. *See Epperly v. The Lehmann Co.*, 161 F.R.D. 72, 74-75 (S.D. Ind. 1994); *see also Am. Hardware Mfrs. Ass’n v. Reed Elsevier, Inc.*, No. 03 C 9421, 2007 U.S. Dist. LEXIS 39639, at \*17-18 (N.D. Ill. Feb. 13, 2007); *Yurman Design, Inc. v. Chaindom Enters., Inc.*, No. 99 Civ. 9307, 2000 U.S. Dist. LEXIS 18329,

<sup>1</sup> “Premo Decl.” refers to the Declaration of Patrick E. Premo in Support of Stipulation and [Proposed] Order Re Deadline on Plaintiff’s Objections to the Court’s October 12, 2007 Order Granting Defendants’ Motion to Compel, filed herewith.

at \*2-4 (S.D.N.Y. Dec. 20, 2000); (Premo Decl. ¶ 6). Thus, The Regents need not file objections to the Court's October 12, 2007 Order (Dkt. No. 946), until 10 days after the Court has served its Order on The Regents' Motion for Reconsideration.

**IT IS SO STIPULATED.**

**ATTESTATION**

Concurrence in the filing of this document has been obtained from the other signatories.

Dated: October 26, 2007

By: /s/Patrick E. Premo  
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**ORDER**

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: October 29, 2007



The Honorable Richard Seeborg  
United States Magistrate Judge

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